

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

September 27, 2012

- I. **CALL TO ORDER** – The meeting was called to order at 1:33 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Eunice Beatty; Will Berkley; Carla Blanton; Patrick Brewer; Mike Cravens; Karen Mundy; Mike Owens, Chair; Carolyn Plumlee; Lynn Roche-Phillips; and Bill Wilson. Absent was Frank Penn.

Planning staff members present: Derek Paulsen, Commissioner; Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; and Stephanie Cunningham. Other staff members present were: Tracy Jones, Department of Law; Firefighter Allen Case, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; Hillard Newman, Division of Engineering; and Tim Queary, Urban Forester.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 10-0 (Penn absent) to approve the minutes of the August 9, 2012, and August 23, 2012, Planning Commission meetings.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 6, 2012, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Mike Owens, Frank Penn, Carolyn Plumlee and Karen Mundy. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Tom Martin, Chris Taylor, Dave Jarman, Denise Bullock and Traci Wade, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, September 6, 2012, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Mike Cravens, Patrick Brewer, Lynn Roche-Phillips, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

- B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

* - Denotes date by which Commission must either approve or disapprove request.

Note: The following item was continued from the June 28, 2012, Planning Commission public hearing.

1. **ZOTA 2012-4: AMEND THE DEFINITION OF "BANQUET FACILITIES"** (10/2/12)* – petition for a Zoning Ordinance text amendment to amend the definition of "banquet facilities" to delete the requirement that the use must take place within a building currently or formerly used as a residence.

REQUESTED BY: C Brothers, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

BANQUET FACILITY - A building ~~currently or formerly used as a residence~~, made available to the public for holding meetings and social events. This use may include the sale of alcoholic beverages; indoor live entertainment; and may also include, as an accessory use, events conducted outside the main building in tents or other temporary facilities, subject to the issuance of a permit by the Division of Building Inspection.

Staff Alternative Text in addition to the definition change:

ARTICLE 8: SCHEDULE OF ZONES

8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(c) Accessory Uses

10. Indoor live entertainment and/or dancing, when accessory to a restaurant or banquet facility, but only when located more than one hundred (100) feet from a residential zone.

8-16(d) Conditional Uses

5. ~~Restaurants offering live entertainment and/or dancing.~~ Outdoor live entertainment, cocktail lounges, brew-pubs or nightclubs [unless prohibited under Sections 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
6. Indoor live entertainment and/or dancing, when accessory to a restaurant or banquet facility, but only when located closer than one hundred (100) feet from a residential zone.

(Re-number remaining sections)

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval of the Staff Alternative Text**, for the following reasons:

1. The proposed text amendment to modify the definition of "banquet facilities" to remove the residence requirement is logical and appropriate because it allows for similar uses to be treated in a similar manner within the business zones.
2. Banquet facilities have been overly restricted in the past five years to the point that very few have been approved, even though demand exists.

Staff Presentation: Ms. Wade presented the staff report, noting that this item was continued from the June 28, 2012, Planning Commission meeting. She added that copies of the minutes of that public hearing had been distributed to the Commission members prior to the start of today's meeting.

Ms. Wade provided a summary of the staff presentation that was made at the previous hearing for this item, explaining that the proposed text amendment would allow banquet facilities to be located in any structure, rather than just a residential structure. The staff recommended approval at that time, but had some concerns about the provision of live entertainment associated with those uses, which are being addressed separately in a text amendment to the Neighborhood Business (B-1) zone. The Planning Commission opted to postpone the B-1 text amendment, but this text amendment must be considered prior to October 2, 2012. Therefore, the staff prepared a supplemental report on this item, copies of which were distributed to the Commission members prior to the start of the hearing.

Ms. Wade stated that, since the staff drafted their original report, the applicant indicated via letter that they are no longer interested in pursuing the proposed text amendment. They did not wish to withdraw their request, however, since they understood that there were other parties in the community who were interested in its outcome. Ms. Wade noted that, after the June

* - Denotes date by which Commission must either approve or disapprove request.

28th Planning Commission meeting, the staff received one letter of support for this proposed text amendment from Todd Strecker, president of the Calumet Area Neighborhood Association.

Ms. Wade said that the staff is now recommending approval of the staff alternative text, which includes some proposed changes to the B-1 zone. Those changes include the identification of a new accessory use for indoor live entertainment and/or dancing if it is accessory to a restaurant or banquet facility, and located at least 100 feet from a residential zone. The staff is also proposing a slight change to the conditional uses to identify outdoor live entertainment as a conditional use, as well as a new conditional use for indoor live entertainment for a restaurant or banquet facility when located less than 100 feet from a residential zone. Ms. Wade said that the staff believes that those proposed modifications should address the concerns about indoor live entertainment, particularly when the proposed use is close to a residential area.

Citizen Comment: There were no citizens present to comment on this proposal.

Commission Comment: Ms. Plumlee stated that she believed it would be more appropriate to require that indoor live entertainment be located more than 100 from residential uses in the rural area.

Action: A motion was made by Ms. Beatty, seconded by Mr. Brewer, and carried 9-1 (Plumlee opposed; Penn absent) to approve the staff alternative text of ZOTA 2012-4, for the reason as listed in the supplemental staff report.

2. GREER NICK RD., LLC, & GREER NICK RD. II, LLC, ZONING MAP AMENDMENT & DEERFIELD SHOPPING CENTER ZONING DEVELOPMENT PLAN

- a. MAR 2012-13: GREER NICK RD. LLC, & GREER NICK RD. II, LLC (11/4/12)* - petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 2.589 net (3.030 gross) acres, for property located at 1949 Nicholasville Road & 145 Collins Lane.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Retail, Trade and Personal Services (RT) for the subject property. The applicant proposes redeveloping a majority of the property with a five-story hotel and retaining the existing restaurant along Nicholasville Road. The proposed hotel would have 105 rooms and associated off-street parking.

The Zoning Committee Recommended: **Postponement**, for the reason provided by staff.

The Staff Recommends: **Postponement**, for the following reason:

1. The proposed zone change and the corollary development plan do not currently show an appropriate relationship, and buffering needed, between a Highway Commercial land use and existing Low Density Residential land uses. The proposed hotel is located far closer to the nearest residences along Goodrich Avenue, when compared to other hotels developed over the past decade.
- b. ZDP 2012-76: DEERFIELD SHOPPING CENTER (11/4/12)* - located at 1949 Nicholasville Road.
(Vision Engineering)

The Subdivision Committee Recommended: **Postponement**. There are issues with the screening and buffering adjacent to a residential subdivision.

Should this plan be approved, the following conditions should be considered:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Denote current floodplain information on plan.
8. Denote record plan name.
9. Clarify site statistics (floor area).
10. Verify required parking for restaurant (square footage/seating ratios).
11. Addition of Nicholasville Road street cross-section and Collins Lane access easement cross-section.
12. Denote proposed and existing storm water sewer locations to the approval of the Division of Water Quality.
13. Resolve utility line and proposed building conflicts.
14. Denote proposed storm water detention location to the approval of the Division of Water Quality.

* - Denotes date by which Commission must either approve or disapprove request.

15. Discuss tree protection, landscaping and buffering perpendicular to Nicholasville Road.
16. Discuss building height adjacent to residential uses.
17. Discuss disposition of existing improvements in Nicholasville Road right-of-way.
18. Discuss timing of revisions to the current FEMA floodplain.

Chairman Comment: Mr. Owens stated, for the record, that a request for additional presentation time had been submitted in advance by the petitioner's attorney, and that the request had been granted.

Zoning Presentation: Ms. Wade began the zoning presentation by noting that the staff had received 11 letters in support of, and 16 letters in opposition to, this request; and she distributed copies of those letters to the Commission members. She added that the staff had prepared a revised Staff Report on this request, which was included in the information prepared for the Commission members prior to the start of this hearing.

Ms. Wade stated that the petitioner is requesting a zone change from the Neighborhood Business (B-1) zone, to the Highway Service Business (B-3) zone, for just over 2.5 acres of property located along Nicholasville Road, approximately 200 feet to the north of that roadway's intersection with Southland Drive. The subject property is comprised of two parcels, one of which is located to the rear of the property and has a Collins Lane address. Collins Lane is an access easement that runs just to the south of the subject property, makes a 90-degree turn, and intersects with Southland Drive. Ms. Wade said that zoning in the vicinity of the subject property includes B-1 for the majority of the properties along Southland Drive, with a few small B-3 parcels in front of the nearby bowling alley. There is also a large amount of P-1 zoning in the area along Southland Drive and Nicholasville Road, beginning just to the south of where Goodrich Avenue and Edgemoor Drive intersect with Nicholasville Road. To the north of the subject property along Nicholasville Road, the zoning is mostly residential, with some Professional Office uses around Central Baptist Hospital. Ms. Wade noted that Goodrich Avenue, which runs parallel to Southland Drive, is part of the neighborhood that borders the back side of some of the Southland Drive businesses. The subject property is bordered by four single-family residential parcels, as well as a small R-3 parcel, which is utilized by the commercial development just to the north as a parking lot.

Ms. Wade stated that the petitioner is proposing to rezone the subject property to B-3 in order to construct a five-story hotel with 105 rooms. The petitioner also proposes to maintain the existing Denny's restaurant on the front portion of the subject property along Nicholasville Road. Ms. Wade displayed several photographs of the subject property and surrounding area: 1) an aerial view of the property, noting the locations of the bowling alley and car wash, other uses along Southland Drive, and Goodrich Avenue; 2) an aerial view of the property, noting the building addition to the rear of the Denny's restaurant, which was formerly occupied by an office development, and the existing auto repair shop on the 145 Collins Lane parcel; 3) a street-level view of the subject property, noting the location of the existing Denny's restaurant; 4) a view of Collins Lane, noting the parking areas and existing auto repair shop; 5) a view of the portion of the building formerly used as an office; 6) a closer view of the former office area; 7) the existing wall that separates the rear of the subject property from the rear yards of the residential properties along Goodrich Avenue; 8) a narrow corridor between the buffer wall and the existing structure on the subject property; 9) a view from the subject property toward Southland Drive; 10) a view of the vacant parcel that is part of the R-3 area adjacent to the subject property, which is used as a detention basin for nearby businesses; and 11) the single-family homes along Goodrich Avenue that would back up to the proposed hotel.

Ms. Wade said that a portion of the subject property was part of the area included in the North Nicholasville Road Small Area Plan, which was recommended by the 2007 Comprehensive Plan. That Small Area Plan was not completed, however, due to disagreement between the stakeholders about the vision and goals for the Plan. She said that the 2007 Comprehensive Plan recommends Retail Trade & Personal Services use for the subject property, as well as other properties along Southland Drive and the parcel immediately to the north of the subject property, at the intersection of Nicholasville Road and Goodrich Avenue. The Retail Trade & Personal Services land use recommendation continues for the majority of the properties along Nicholasville Road, all the way to Man O' War Boulevard. Ms. Wade stated that the 2007 Comprehensive Plan recommendation for Retail Trade land use is consistent with the existing B-1 zoning of the subject property, and the zoning is currently considered to be in agreement with the Plan. The proposed B-3 zone is typically considered to be in agreement with the Highway Commercial or Interstate Commercial land use designations. In general, the B-3 zone has been found by the Planning Commission and the Council to be in agreement with the Retail Trade land use category, if it is appropriately restricted via conditional zoning. In this manner, hotels have been approved in the past, limiting the commercial use of the property to neighborhood-oriented businesses, offices, and a hotel. Ms. Wade said that the Nicholasville Road corridor has a number of areas currently zoned B-3, all of which have either: a) been zoned for 40 or more years, so they do not have conditional zoning restrictions; or b) they were recently developed hotel sites. The proposed hotel would be located in close proximity to the University of Kentucky and Central Baptist Hospital, and since the subject property is located along a busy corridor, the hotel could well serve the neighboring businesses along Southland Drive and Nicholasville Road, as well as the nearby neighborhoods.

Referring to an aerial photograph of the subject property, Ms. Wade explained that the staff is concerned about the proposed siting of the hotel on the subject property. She indicated on the photograph which portion of the existing structure on the property is proposed for demolition, as well as the configuration of the proposed hotel, noting that part of the reason for the staff's concern is the close proximity of the existing residences along Goodrich Avenue. Some of those resi-

* - Denotes date by which Commission must either approve or disapprove request.

dences would be located very close to the hotel building, and according to the submitted letters, some property owners are concerned about the proposed use of the property. Ms. Wade said that of more concern to staff was the massing of the building and its possible impact on some of the adjacent residential properties, since the building would be located as close as 65 feet to some of those properties. The B-3 zone establishes a 3:1 height-to-yard ratio when it is located adjacent to residential zones; but it allows for a maximum of 75 feet in height. Ms. Wade noted that, in other locations, hotels have been developed near residential uses, but the structures were not located so close to single family residential uses, and they were not five stories in height. The staff researched zone changes filed for hotel uses in the last decade, and found that the closest hotel to a single family residential area was 300 feet, with an average distance of over 800 feet. In another case, a planned development was proposed, which included a hotel along with townhouse and multi-family structures. In that development, the hotel is located across a public right-of-way from townhouse uses, but the hotel was sited first, so the property owners were aware of the existence of the hotel when they purchased their properties. Ms. Wade stated that, in this case, the hotel is proposed to be located only 23 feet from the property line which is shared with single family residences along Goodrich Avenue. The closest residential structure would be located only 70 feet from the proposed five-story hotel. The hotel would be nearly twice the 35-foot maximum height allowed in the R-1C zone, which is the zoning designation for the Goodrich Avenue properties.

Ms. Wade said that, in addition to the staff's concerns about the height and massing of the proposed hotel, the petitioner has provided insufficient legal justification for the zone change. KRS 100 and Article 6-5 of the Zoning Ordinance require that the applicant provide evidence so that the Planning Commission, and ultimately the Council, can make a finding of fact that the map amendment is either: in agreement with the Comprehensive Plan; that the existing zoning is inappropriate and the proposed zoning is appropriate; or that there has been a major change of an economic, physical, or social nature in the area that was not anticipated by the Comprehensive Plan. The staff does not believe that the petitioner addresses those findings. Ms. Wade stated that the staff does believe that the existing B-1 zoning is appropriate at this location. The B-1 zone is consistent with the zoning and uses along Southland Drive and Nicholasville Road. The applicant's proposed conditional zoning restrictions would permit B-1 uses on the subject property, which indicates to the staff their acknowledgement of the appropriateness of B-1 uses in this area.

Ms. Wade said that the staff originally recommended postponement of this request, which was the recommendation they presented to the Zoning Committee members at their meeting three weeks ago. The Zoning Committee recommended postponement at that time, and the staff hoped that the petitioner would be willing to address the staff's concerns about the proximity of the proposed hotel to the adjacent single family residential uses. The petitioner did not address those concerns, and they wish to move forward at this time. Therefore, the staff has prepared the following revised recommendation for disapproval of this request:

The Staff Recommends: **Disapproval**, for the following reasons:

1. The proposed zone change and the corollary development plan do not propose the appropriate buffering needed between a Highway Commercial land use and existing Low Density Residential land uses. The proposed hotel is located far closer to the nearest residences along Goodrich Avenue, when compared to other hotels developed over the past decade, which on average are located 800 feet from the nearest single-family residence.
2. The applicant has provided insufficient legal justification to meet the requirements of KRS 100.213 and Article 6-5 of the Zoning Ordinance. Specifically, these regulations require that evidence be provided so that the Planning Commission, and ultimately the Urban County Council, can make a finding of fact that the map amendment is in agreement with the adopted Comprehensive Plan; or, in the absence of such a finding, that: (1) the existing zoning classification is inappropriate and the proposed zoning classification is appropriate; or (2) there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated in the Comprehensive Plan adopted by the Commission and which have substantially altered the basic character of such area.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining for the benefit of those in the audience that the staff and Subdivision Committee review such plans as if the proposed zoning was already in place. He briefly oriented the Commission to the location of the subject property, noting that the Collins Lane access easement varies in width from 30 feet near the intersection with Nicholasville Road, to 40 feet near the rear of the property. The petitioner is proposing to construct a 105-room hotel building, 65,000 square feet in size, five stories and 65' in height, to be oriented toward Nicholasville Road. The petitioner is also proposing a canopy over the front entrance, and a swimming pool and workout room in the rear. Access to the property is proposed via the existing Denny's restaurant access, as well as a several access points from Collins Lane into the proposed parking area. Stormwater management is proposed via two underground detention basins in the off-street parking lots. The petitioner is proposing 158 parking spaces to serve the hotel and restaurant, which would meet and slightly exceed the parking requirement of 155 spaces.

Mr. Martin stated that this revised version of the development plan satisfied several of the "clean-up" conditions that were recommended by the Subdivision Committee at their meeting three weeks ago. He noted that the staff had distributed copies of the following revised recommendation to the Commission members prior to the start of today's hearing:

* - Denotes date by which Commission must either approve or disapprove request.

The Subdivision Committee Recommended: **Postponement**. There are issues with the screening and buffering adjacent to a residential subdivision.

Note: The Planning Staff received a revised plan on September 19, 2012, that addressed several of the standard "clean-up" conditions on the plan concerning required information on a development plan. However the revised plan does not address the primary concerns that were the basis for the Subdivision Committee's postponement recommendation.

Should this plan be approved, the following conditions should be considered:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. ~~Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
7. ~~Denote current floodplain information on plan.~~
8. Denote record plan name.
9. ~~Clarify site statistics (floor area).~~
10. ~~Verify required parking for restaurant (square footage/seating ratios).~~
11. ~~Addition of Nicholasville Road street cross-section and Collins Lane access easement cross-section.~~
12. Denote proposed and existing stormwater sewer locations to the approval of the Division of Water Quality.
13. ~~Resolve utility line and proposed building conflicts.~~
14. Denote proposed storm water detention location to the approval of the Division of Water Quality.
15. Discuss tree protection, landscaping and buffering perpendicular to Nicholasville Road.
16. Discuss building height adjacent to residential uses.
17. Discuss disposition of existing improvements in Nicholasville Road right-of-way.
18. Discuss timing of revisions to the current FEMA floodplain.

Mr. Martin said that the Subdivision Committee's primary concerns, which were the basis for their postponement recommendation, were the massing and height of the proposed hotel in relation to the adjacent single family homes and what type of landscaping could provide an appropriate buffer between the two uses. With regard to condition #7, he stated that it, and condition #8, relate to the existing stormwater issues in the vicinity of the subject property. Conditions #9 and #10, which refer to tree protection, landscaping and buffering, and the height of the proposed hotel building, can be resolved at the time of a Final Development Plan for the property. Mr. Martin reminded the Commission members that this is a Preliminary Development Plan, and that they would be required to review and approve a Final Development Plan before any new buildings could be constructed on the subject property. With regard to condition #11, Mr. Martin stated that, in some instances, property improvements are installed in the right-of-way; such is the case with the subject property. It is typical to require that those improvements be approved by the Kentucky Department of Transportation at the time of a Final Development Plan for a property. Condition #12 would require that information pertaining to the proposed revisions to the current FEMA floodplain must be considered at the time of the Final Development Plan as well. Mr. Martin explained that the entirety of the subject property is currently located in the regulatory FEMA floodplain, with the exception of the small green space between Denny's restaurant and the Nicholasville Road curb line. At the time of a Final Development Plan for the property, the petitioner will be required to either provide proof that the floodplain map has been amended to the approval of FEMA, or comply with Article 19 of the Zoning Ordinance, which regulates construction activities in floodplain areas.

Commission Question: Mr. Wilson asked if there is a stoplight at the Collins Lane intersection with Southland Drive. Mr. Martin answered that there is a signal at the Southland Drive/Nicholasville Road intersection, but not at the intersection with Collins Lane. Mr. Wilson asked if the Collins Lane access point is right-in/right-out only, or if drivers could attempt to make left turns onto Nicholasville Road from its intersection with Nicholasville Road. Mr. Martin answered that that intersection is not controlled in such a manner, and any type of turning movement is permitted there.

Petitioner Presentation: Bruce Simpson, attorney, was present representing the petitioners. He began his presentation by distributing an exhibit notebook, and asking that the Commission members consider this request objectively, being mindful of the fact that each application brought before them could be considered as an opportunity for the surrounding neighborhood. The petitioners believe that their \$15 million investment in the proposed hotel could be beneficial to the area around the subject property, since the Southland Drive area has not seen significant improvement since the construction of the commercial uses there in the 1950s. The petitioners also contend that the proposed hotel could be beneficial to the surrounding neighborhood since it would be "more residential in use" than any of the existing commercial uses permitted in the existing B-1 zone.

* - Denotes date by which Commission must either approve or disapprove request.

Mr. Simpson stated that the subject property was first developed in the early 1960s, originally serving as the location for the first corporate offices of the Jerrico company. The petitioners purchased the subject property five years ago, with the knowledge that it had been degrading over the years. They spent some time determining what might be the best way to improve the property, and they believe that the proposed hotel could serve as a "benchmark" for the future revitalization of Southland Drive. The petitioners hope that improvement of the subject property could spur other property owners along Southland Drive to upgrade as well, and to invest in the future revitalization of the area.

Mr. Simpson stated that the petitioners were aware that some of the residents near the subject property were not in favor of the proposed hotel, so they invited them to a neighborhood meeting. At those two meetings, the petitioners presented their proposal, listened to the neighbors, and provided feedback. Following the neighborhood meetings, the petitioners interacted with several residents by phone and email, and viewed the subject property from some of the adjacent backyards. Mr. Simpson said that, as a result of those conversations, four of the six residents who live nearest the subject property are in support of the proposed rezoning. He noted that the petitioners recently learned that one of the Goodrich Avenue residents is particularly concerned about the existing stormwater issues on that street. Those issues have been well known for some time. LFUCG purchased six houses at the end of that street some years ago, and converted those properties into a detention basin, since most of the properties in the area were developed at a time when there were no requirements for stormwater management. Mr. Simpson noted that the petitioners met for some time with that resident, who has struggled with flooding for years, and explained that water from the subject property does not drain to her property. The petitioners inspected the existing infrastructure as part of that discussion, and discovered that it "is in serious need of repair." The petitioners contend that LFUCG has been aware of the Goodrich Avenue residents' concerns for years, but has not undertaken the necessary steps to remedy the situation.

Referring to his exhibit notebook, Mr. Simpson stated that it includes the portion of the Zoning Ordinance that identifies the principal permitted uses in the existing B-1 zone. He said that restaurants, bars, and drive-throughs are all permitted; but they are very different in character from the nearby residential uses, because no one sleeps on those properties. One of the first concerns expressed by nearby residents was that the proposed hotel could generate too much additional traffic on Nicholasville Road. In an attempt to address those concerns, the petitioners hired a traffic engineer to analyze the possible impact of the proposed hotel on traffic, as opposed to the uses that would be permitted under the current B-1 zoning. Mr. Simpson said that the petitioners could, without Planning Commission approval of a development plan, develop the subject property for restaurants; beauty shops; repair of household appliances; arcades; equipment rental; indoor theaters; athletic club or banquet facilities; retail shops; medical offices; or urgent treatment centers or other uses allowed in the Professional Office zone. All of those uses would be active businesses, and they would all generate additional traffic on Nicholasville Road. The petitioners contend that the proposed hotel would be a better alternative.

Mr. Simpson displayed the following photographs: 1) an aerial view of the subject property and surrounding area; 2) an aerial view of the proposed hotel site; 3) a street-level view of the existing structure on the property, noting that it is approximately 25' feet tall and comparing its height to the existing tree stand between the subject property and the Goodrich Avenue residences; 4) the existing car wash near the subject property, which can be heard from some of the rear yards of the adjoining Goodrich Avenue residences; 5) the proposed hotel site, noting that the structure is proposed to be approximately 47.5' wide on the edge facing Goodrich Avenue; 6) the back side of the existing structure on the subject property, noting the HVAC unit; 7) a view of the subject property from the rear deck of the residential structure at 106 Goodrich Avenue; 8) another view from 106 Goodrich Avenue; 9) a view from the rear yard of 108 Goodrich Avenue, noting that the treeline in that location is very heavy and it is difficult to see the subject property; 10) the concrete flume that drains storm water under Goodrich Avenue; 11) the existing detention basin on Goodrich Avenue, which is blocked by a metal grate and frequently backs up; 12) a concerned Goodrich Avenue resident viewing the manhole on the subject property; 13) a view of the rear sides of the structures on the Southland Drive properties that adjoin the subject property, noting the locations of dumpsters, which the petitioner contends makes the subject property unsuitable for professional office use; and 14) a view of Collins Lane, noting that it is barricaded at the end. Mr. Simpson stated that these photographs support the petitioner's contention that many of the existing uses adjoining the subject property are not "neighborhood-friendly" for the residences along Goodrich Avenue. He said that the petitioner could file a development plan for any of the principal permitted uses in the B-1 zone, which would require little additional screening. Mr. Simpson noted that the existing structure on the subject property is 190 feet in length; the proposed hotel would be only 47.5 feet in length. The petitioner contends that, although the building would be five stories tall, it would have much more limited exposure to the properties along Goodrich Avenue.

Mr. Simpson displayed several views of an architectural rendering of the possible rear view of the proposed hotel, from the Goodrich Avenue properties, noting that no hotel rooms are proposed to face that street. He also displayed a possible view from 106 Goodrich Avenue, including a rendering of a 35-foot building built five feet from the property line, which would be allowed in the existing B-1 zone. The petitioner believes that, given their proposal to plant additional trees along the shared property line, as well as install a fence, the subject property would eventually be nearly invisible from the Goodrich Avenue residents.

Mr. Simpson stated, with regard to Ms. Wade's remarks about the staff's research into hotels approved near residential neighborhoods, that the petitioners do not agree with the staff's calculations. The petitioners contend that, in one loca-

* - Denotes date by which Commission must either approve or disapprove request.

tion, a hotel was approved 104 feet away from a single family residential neighborhood, with no landscape screening. Mr. Simpson stated that Ms. Wade had indicated that, in the staff's research, the average distance between a hotel and a single family residential use was 800 feet. He said that the petitioners had measured the distance between the proposed hotel site on the subject property and every house on Goodrich Avenue, Wabash Drive, and Lackawanna Road. On Goodrich Avenue, 82% of the houses were more than 300 feet away from the proposed hotel site; the average distance for the homes on Goodrich Avenue was 800 feet. The average distance for homes on Wabash Drive was 1,078 feet; for Lackawanna Road, the average distance from the proposed hotel site was 806 feet. Mr. Simpson noted that none of the houses on Wabash or Lackawanna are within 300 feet of the proposed hotel site. Out of these three streets, only 12 houses are located less than 300 feet from the proposed hotel site, with five of those homes located between 260 and 290 feet from the site.

With regard to some of the residents' concerns about the proposed hotel generating additional traffic on Nicholasville Road, Mr. Simpson said that the petitioners had conducted a traffic study to determine how much traffic is generated by the existing uses on the subject property, and to predict how much traffic the proposed hotel could add to that roadway. He said that that study indicated that the proposed hotel would generate an average of 858 trips a day, while a pharmacy, grocery store, medical or dental office, athletic club, drive-in bank, gas station, sit-down restaurant, or fast-food drive-through would generate considerably more trips per day, and all of those uses would be permitted in the existing B-1 zone. The petitioners contend that, by limiting the permitted uses on the property via conditional zoning restrictions, the proposed B-3 zone would actually be more restrictive than the existing B-1 zone.

Mr. Simpson referred the Commission to the copy of the petitioners' landscape plan (in his exhibit notebook), noting that such a plan would not typically be included as part of a rezoning. He said that the petitioners are proposing four times the minimum required landscaping on the interior of the property, in the parking area, to improve the viewshed from Nicholasville Road and prevent it from looking like a "sea of parking." The petitioners are willing to commit to including that additional landscaping as a note on the development plan for the subject property, which would require them to install it.

Referring again to his exhibit notebook, Mr. Simpson displayed an aerial photograph of a home at 1951 Timber Creek Drive, which is located in an R-1D zone 104 feet from a hotel. He noted that there is no screening between those two uses, in contrast to the subject property, which is considerable existing screening that the petitioner will commit to augmenting.

With regard to the neighbors' concerns that construction of the proposed hotel could devalue their properties, Mr. Simpson stated that the petitioners had hired Keith Mays, a local property appraiser, to evaluate similarly-situated commercial properties with buildings of five or more stories in height, located next to single family residential neighborhoods. Mr. Mays examined the sales data and prepared a report, copies of which were included in Mr. Simpson's exhibit notebook. Mr. Mays considered the properties along Hiltonia Park, next to Central Baptist Hospital; parcels near the General Electric plant adjacent to Lafayette High School; properties along Bob O' Link Drive, near St. Joseph Hospital; residences near the Lexington Tennis Club, which has a 60-foot tall indoor tennis facility; and Perimeter Center, at the intersection of Alumni Drive and New Circle Road. After evaluating sales data over a period from 1967 to 2012, Mr. Mays indicated in his report that all of those properties have appreciated in value.

In conclusion, Mr. Simpson stated that the petitioners contend that the proposed hotel would be beneficial to the nearby residents, since the petitioner is willing to commit to installing additional buffering for the Goodrich Avenue residences; decreasing impervious surface on the subject property; and increasing stormwater mitigation measures that could have a positive impact on the entire Wolf Run watershed. He said that the petitioners believe that the proposed B-3 zone, with conditional zoning restrictions, will be compatible with the existing adjacent residential properties, and that it is in substantial conformity with the recommendations of the Comprehensive Plan. Mr. Simpson concluded by opining that the Commission members should not be concerned about the proposed rezoning setting a negative precedent; rather, the petitioners believe that their proposal could set a positive precedent that might result in additional improvements for the entire area.

Commission Question: Mr. Owens asked if any of the trees depicted along the property line on the architect's rendering of the proposed hotel currently exist on the site. Mr. Simpson deferred the question to Ted Hardwick, Landscape Architect. Mr. Hardwick answered that none of the trees depicted on the rendering currently exist.

Note: Chairman Owens declared a brief recess at 2:56 p.m. The meeting reconvened at 3:04 p.m. with all members in attendance.

Chairman Comments: Mr. Owens stated that, at this point in the hearing, any citizens who wished to speak would be given three minutes in which to do so. He said that those in support would speak first, followed by those in opposition.

Citizen Support: Shirley Tipton, 104 Goodrich Avenue, stated that she was also speaking for Amy Carrington, who owns the property at 106 Goodrich Avenue. She said that she and Ms. Carrington own the nearest properties to the site, and the proposed screening fence will adjoin their backyards.

Ms. Tipton stated that she has lived at her residence for 12 years, after living for 10 years on University Avenue near the UK College of Agriculture. She sold that residence when several barns were constructed to the rear of the property, and relocated to Goodrich Avenue. Ms. Tipton said that she loves the neighborhood, but the view to the rear of her property has, for the last 12 years, consisted of "an old parking lot, the backs of old businesses, and a car wash." She opined that, although many of her neighbors desire that their area be a quaint, walkable neighborhood with local businesses, she believes that the B-1-zoned subject property is more likely to be developed as a small strip shopping center or fast-food restaurant. Although many of the residents do not believe that the proposed hotel would be useful to them, Ms. Tipton said that some of the homes in the area are not large, so it would be nice to have a hotel nearby to accommodate overnight guests.

Ms. Tipton stated that she had allowed the vegetation in her rear yard to become overgrown, because they completely screen the subject property from view. She added that she respects the concerns of her neighbors, but three of the four nearest property owners appreciate the petitioners' proposal to install additional screening along the shared property line. The fourth parcel, just to the east of Ms. Tipton's property, is not owner-occupied, but she said that the renters have indicated that they are also in support of the proposed hotel.

Amanda Hale, 108 Goodrich Avenue, said that she and her husband have studied the petitioner's proposal very carefully, and they believe the proposed hotel will be attractive and beneficial to the nearby neighborhood. She stated that they are excited about the possible removal of the existing dilapidated structure on the subject property, and they are looking forward to something attractive and well-planned.

Julie Butcher, 1922 and 1918 Nicholasville Road, stated that she was a member of the citizen committee that participated in the North Nicholasville Road Small Area Plan process, and she supports the proposed rezoning to B-3. She said that her property at 1922 Nicholasville Road is currently a rental; and she believes that, if the proposed hotel is constructed, her tenants will appreciate being able to look out the front door on an attractive, well-maintained hotel, rather than the existing "deteriorating eyesore." Ms. Butcher added that, as a business owner, she is encouraged by the possibility of additional tax revenue and jobs in this area of Lexington.

Citizen Opposition: Joseph Miller, 141 Goodrich Avenue, stated that he has lived in his home for 27 years. He said that he is not anti-development, but he opposes the proposed rezoning because it could preclude any development of the property with true neighborhood business uses.

Mr. Miller stated that he respects the opinions of the neighbors who spoke in favor of the proposal, but he believes that appropriate development of the property with a B-1 use could satisfy their concerns. He opined that the fact that the subject property is dilapidated is not a sufficient reason to rezone it to B-3, since the petitioner has owned it for some time and had ample opportunity to either perform the necessary upkeep, or develop it with a B-1 use that respects the adjoining neighborhood and the need for storm water management.

Mr. Miller said that his main concerns are the visual profile of a large-scale hotel on the subject property, its close proximity to low-density housing, and the possible negative impact on the neighborhood. He believes that the proposed hotel would be a "towering structure, unacceptably close to residential properties" and it could significantly alter the residential character of the neighborhood. Some of the Goodrich Avenue neighborhood residents believe that they do not have a voice in this process, and that the proposed rezoning is a "done deal" because the petitioners can afford to hire a lawyer. Mr. Miller said, however, that he appreciates having the opportunity to make his opinion heard. He also stated that he would like to acknowledge the high level of professionalism of the Planning staff, and their responsiveness to citizen concerns. He asked that the Planning Commission vote to disapprove this request.

Pat Lemont, 116 Goodrich Avenue, stated that she has lived in her home for three years, and has made approximately \$40,000 in improvements to it during that time. Referring to the rendered zoning map and Mr. Simpson's comments, she said that the 400' notification area encompasses all of the homes up to 122 Goodrich Avenue, all the way across Nicholasville Road to some of the homes on Edgemoor and Tahoma Roads.

Ms. Lemont stated that she primarily objects to the proposed B-3 zone, because she believes that it could set a precedent for "bringing New Circle Road zoning to Southland Drive." She opined that the B-3 zoning on New Circle Road is considered "one of Lexington's biggest negativities," and that the subject property is not the appropriate location for that type of zoning and uses. Since Southland Drive is a relatively short connection between Nicholasville Road and Rosemont Garden, it does not provide the requisite traffic and accessibility for the types of uses that typically locate in the B-3 zone.

Ms. Lemont said that many of the homes in the Goodrich Avenue area have been there since the 1920s and should be considered historic and unique. She requested that, should the Planning Commission choose to approve this request, they consider the implementation of a "transition zone" between the proposed hotel and the adjacent residential uses. If constructed as proposed, the shadow of the hotel could deprive the Goodrich Avenue residents of their "solar rights," which are protected by KRS 381.200.

* - Denotes date by which Commission must either approve or disapprove request.

Ms. Lemont stated that the residents of the Goodrich Avenue neighborhood are educated, "urban sophisticates" who prefer to live in a walkable neighborhood with local business that cater to area residents. She believes that the proposed hotel would cater to transients, and would therefore be out of character with the existing residential uses.

Candace Wallace, 130 Goodrich Avenue, stated that she is concerned that rezoning the subject property to B-3 could set a precedent for the area, and encourage other property owners to pursue B-3 uses for their properties. She said that, according to the information provided by the petitioner, their FEMA map amendment application includes the entire area from the subject property to the Southland Drive railroad overpass. Ms. Wallace believes that that map amendment would remove all of the properties that back up to Goodrich Avenue from the floodplain, which is the only thing that has kept that area from "blowing up" with commercial/industrial development. She opined that that type of development could destroy the residential character of the Goodrich Avenue neighborhood.

Sue Beard, 1854 Bellefonte Drive, stated that she has been a realtor in Lexington for 30 years. She said that, by doing some research in the general vicinity of Southland Drive, she found that hotels that were built in the Beaumont neighborhood; on South Broadway near Red Mile Road; and on Waller Avenue, as well as the medical building across Southland Drive from the subject property are all three stories in height. She believes that a positive precedent has already been set, to limit hotel and office buildings to three stories in residential areas.

Ms. Beard said, with regard to the petitioner's proposed landscape plan, that pine trees would be a poor choice for use as a landscape buffer between the subject property and Goodrich Avenue, as they are not hardy enough to survive frequent ice storms.

Ms. Beard stated that, as a realtor, she attends residential appraisal seminars frequently, and she finds it difficult to believe that the values of the homes on Hiltonia Park are unaffected by their close proximity to Central Baptist Hospital, contrary to the evidence presented by the petitioners. She added that she does not agree with the petitioners' contention that the proposed hotel would be residential in use.

Clarissa Spawn, 103 Irvine Road, stated that the residents and neighbors who patronize businesses on Southland Drive have a "vision of what they would like Southland Drive to be," and it does not involve chain restaurants or hotels. She said that she moved here from Charlotte, North Carolina, 25 years ago, because of the beautiful, livable, affordable neighborhoods close to the downtown area. She added that her husband has commuted by bicycle to Lexmark daily for 25 years, and she believes that many of her neighbors have similar priorities.

Ms. Spawn said that degrading the boundaries of Lexington has the potential to destroy their charm and livability. The construction of a large, "non-neighborly" hotel in an area surrounded by several neighborhoods could negatively impact Lexington as a whole. She opined that the Comprehensive Plan is very clear about the type of use that is desired on the subject property, and she asked that the Commission disapprove this request.

Bill Fountain, 131 Wabash Road, stated that he is a green industry professional; a professor in the Horticulture Department at the University of Kentucky; a Master Arborist; and a certified tree risk assessor. He said, with regard to the proposed landscape plan, that the trees would be "essentially planted in a teacup." He opined that, if the trees are planted as proposed, they will look like those in the Regency Center development, which have not grown in the 15 years since they were planted. Tree growth requires a significant amount of soil, and trees planted in the manner of those depicted on the petitioner's rendering are unlikely to survive. Dr. Fountain stated, with regard to Mr. Simpson's comments about the existing large tree stand along the Goodrich Avenue property boundary, that the construction process on the subject property is likely to shorten their lifespan and cause them to "become a liability for the people who are living adjacent to them." He added that he would be happy to assist the petitioner in analyzing and protecting those trees.

Dr. Fountain said, referring to Mr. Simpson's remarks, that, if 82% of the homes on Goodrich Avenue are more than 300 feet from the proposed hotel site, 18% are located less than 300 feet away. He opined that homebuyers are unlikely to want to live so close to a hotel, which could drive down the property values of the existing homes in the area. He added that he does not believe that a hotel would be residential in nature, and that he is concerned about the peak-hour traffic volumes generated by the hotel.

Michael Bardo, 107 Lackawanna Road, read into the record of the meeting the following letter from his neighbor, Allison Connell, who was unable to be present:

"I live in the Wabash/Goodrich/Penmoken/Lackawanna neighborhood. We are all very fortunate to have a neighborhood—a real neighborhood. We know our neighbors, we have three streets that join and have no through streets. There is an elementary school less than a mile away. Our children can play basketball and throw a football in the street, and we as parents know that they are safe because we all know the kids by name. The businesses on Southland know me, and they know our children—like Donut Days and the bowling alley—owned and frequented by people from Lexington. A hotel is frequented by people who are not from

Lexington. We agree with the Planning Commission's staff and I would appreciate for this to stay a B-1, which is appropriate for a low-density residential land use. There is a value to having a neighborhood that is not measured in dollars. To us, our neighborhood is a treasure."

Elizabeth Graves, 1859 Norfolk Drive, stated that she would be able to see the proposed hotel from her porch. She said that she agrees with the staff's recommendation of disapproval. Ms. Graves opined that property values in her neighborhood will most likely go down, because prospective buyers will not want to purchase homes so near a large hotel. She said that she would like for the vision for Southland Drive to focus on local businesses, not B-3 uses.

Susan Daole, 141 Goodrich Avenue, stated that she works at the University of Kentucky. She said that, when she meets new UK employees who are looking for a residence in Lexington, she likes to show them the Goodrich Avenue, Tahoma Road, and Shady Lane areas as examples of great neighborhoods. She said that Southland Drive has Bluegrass music each week during the summer; a farmers market; the only food co-op in town; excellent local restaurants; and two of the best local candy shops in town. Ms. Daole said she does not agree with the petitioner's contention that the proposed hotel would be similar in use to residences, since hotel guests are unlikely to contribute to the neighborhood.

Ms. Daole stated that she feels that the petitioner has "threatened" the Goodrich Avenue residents with the possibility of constructing another, less desirable use on the subject property should this request be disapproved. She added that she and her neighbors would prefer for the subject property to be developed with a one-story building and a use that could make the neighborhood residents proud.

Amy Clark, 628 Kastle Road, stated that she enjoys shopping on Southland Drive, but she does not do so as often as she might like to, because traffic in the area is an impediment. She said that there have been many improvements made to Southland Drive in recent years, and she shops in the area because there are things there that are not available elsewhere. Ms. Clark said she believed that the businesses along Southland Drive truly provide retail, trade, and personal services uses. She added that the area acts as an incubator for businesses to start small, and later move to larger headquarters.

Ms. Clark stated that she does not believe that guests of the proposed hotel will support the local businesses on Southland Drive. She added that the location of a large hotel on the subject property could drive up commercial property values in the area, which could cause more properties to be zoned to B-3 and increase the number of undesirable businesses. Ms. Clark concluded by saying that she would hate to see the subject property developed with some type of use that could be worse than the existing structure on the property.

Alicia Cox, 113 Goodrich Avenue, stated that she and her husband recently returned to Lexington after living away for 15 years. She stated that they would not have bought their home three years ago if there had been a hotel on Southland Drive. Ms. Cox said that she has a young son who plays outside, and she is concerned about "transients" coming and going from her neighborhood, including child predators. She added that she believes that hotels only locate in "lower-end" neighborhoods.

Mike Erley, 110 Goodrich Avenue, stated that he is concerned about the size of the proposed hotel building, which would be the largest Hampton Inn in the Lexington metropolitan area. He said that he is also concerned that the construction process could kill the existing tall trees on the property, and that the trees the petitioner is proposing to plant could not survive due to the location of a large Kentucky Utilities transmission line.

Mr. Erley said that he believes that adding 200-300 cars each day in this area on Nicholasville Road would have a huge impact on traffic, particularly since hotel guests might be unfamiliar with the reversible lane system.

Mr. Erley added that he believes there would be less opposition to the proposed hotel if the petitioner would agree to construct a smaller building.

Petitioner Rebuttal: Mr. Simpson stated that the petitioners appreciate the neighbors' concerns, and understand that residents are "comfortable with the status quo." He said that, since the land use policy in Lexington is that the Urban Service Area should not be expanded, it is necessary to be more creative with existing properties. The petitioners purchased a distressed property, and attempted to find a creative use for it that would not have a negative impact on the surrounding neighborhood.

Mr. Simpson said that, when the neighborhood residents expressed concerns about the proposed hotel having a negative impact on their property values, the petitioners hired an appraiser, who submitted a report which indicated that those values should actually increase. When the residents expressed concerns about traffic, the petitioners commissioned a traffic study, which indicated that the proposed hotel would likely generate less traffic than some of the other possible uses for the property.

Mr. Simpson said that many of the citizens who spoke in opposition to this request reside much further than 800 feet away from the subject property. He noted, however, that three of the four closest residents, on whom the proposed hotel would have the most impact, spoke in support. Mr. Simpson reiterated that the petitioners are proposing to restrict all other B-3 uses besides hotels, which would create less traffic, noise, and outdoor activity than any of the uses permitted in the existing B-1 zone.

Mr. Simpson stated that the petitioners contend that the proposed rezoning provides them with an opportunity to improve the neighborhood and take advantage of an underutilized property. He said that the petitioners need to develop this vacant property, and they believe that construction of the proposed hotel at this location would be a "win-win situation."

Citizen Rebuttal: Mr. Miller stated that the petitioners had provided a great deal of statistical information; but, as someone familiar with the sciences, he understands that there are ways to manipulate and present data in order to make a case for a particular issue. While he respects the information the petitioners provided with regard to the impact of the proposed hotel on property values, several of the residents who spoke stated that they would not have purchased a home in the Goodrich Avenue neighborhood if there had been a large hotel nearby. Mr. Miller asked the Planning Commission members to consider whether they would be willing to purchase a home with a hotel located only 23 feet from its property line.

Mr. Miller stated that he also respects the opinions of the residents who spoke in support of this request, but he believes that they might be tired of the dilapidated condition of the subject property, and hopeful for some type of improvement. He noted that he finds it difficult to make the case that the proposed hotel would be in the best interest of the neighborhood, when the petitioner would let the property deteriorate for the past five years.

Mr. Miller said that he does not agree with the petitioners' contention that the proposed hotel is residential in nature, and that it will be an asset to the neighborhood. He stated that he believes that the scale of the building is relevant, and it would have a negative impact on the entire neighborhood, not just those residents whose properties adjoin the subject property. Mr. Miller concluded by stating that he would prefer that the subject property be developed with an appropriate B-1 use, and that his opinion is shared by many of his neighbors.

Dr. Fountain stated that he had lived and worked in Singapore for a number of years. He said that, in a geographic area $\frac{3}{4}$ the size of Fayette County, that island state has a much greater population than Kentucky. During the time that he and his wife lived there, they did not feel the "urban pressures" that they feel in Lexington, because residents there work and shop close to where they live. Dr. Fountain asked that the Planning Commission help to maintain the "community aspect" of the Southland Drive area by disapproving this request.

Staff Rebuttal: Ms. Wade stated that the staff does not agree with the petitioners' assertion that a five-story building in close proximity to single-family residences can be fully mitigated by a vegetative buffer. The staff believes that additional separation is necessary to lessen the impact of the proposed land use, which is one of the reasons why B-3 zoning is not well situated next to low-density residential land uses. Ms. Wade stated that that additional separation could be achieved by either shifting the hotel on the site, or rotating it parallel to Collins Lane, but the petitioners have been unwilling to consider those options.

Ms. Wade said that both the Zoning Ordinance and Comprehensive Plan specifically address hotel uses, and they do not consider those uses as residential in either design or function. She added that, in Lexington-Fayette County and all over the country, hotels are regulated as commercial uses. The Zoning Ordinance defines a hotel as, "A building or group of buildings that contain individual sleeping or living units designed for the temporary occupancy of transient guests. This includes hotels, motor courts, motor lodges, motor hotels or auto courts, but does not include boarding or lodging houses." Ms. Wade stated that the Zoning Ordinance does infer that boarding and lodging houses and extended-stay hotels are somewhat residential in use, since guests are allowed to stay for a week or more. She explained that the Comprehensive Plan identifies hotels specifically as a Highway Commercial or Interstate Commercial land use, as part of the category of retail sales, goods, or services which appeal to motorists and the transient, traveling public, rather than neighborhoods.

With regard to Mr. Simpson's comments about recent zone changes and the relationship between B-3 hotel sites and single family residential uses, Ms. Wade stated that Mr. Simpson misrepresented the staff's data. The staff considered requested changes to B-3 zones, not the B-5P zone, in which one of Mr. Simpson's examples is located. In addition, at the site on which Mr. Simpson asserted that there is no landscape buffer between the hotel and residential uses, the staff believes that the photograph was taken during the winter, when the deciduous trees were bare and not as visible. Ms. Wade stated that there is an existing landscape buffer at that location, and that such buffers are required by the Zoning Ordinance between a business zone and a residential zone. She added that the hotel at that location is three stories in height, not five stories as is proposed on the subject property. With regard to the locational data provided, Ms. Wade stated that the staff researched the closest single family residences that were planned for or built near hotels, not the average of the distance for all of the houses in the neighborhood, as the petitioners' data indicated. She explained that the staff looked at the closest residence to create a minimum distance, then calculated based on seven sites. On

* - Denotes date by which Commission must either approve or disapprove request.

average, the minimum distance was 800 feet. Ms. Wade reiterated that the staff is recommending disapproval of this request.

Chairman Comment: Mr. Owens stated that the public hearing would now be closed, and he opened the floor for discussion or questions from the Commission.

Commission Discussion: Ms. Plumlee asked if the petitioner considered prohibiting left turns onto Nicholasville Road from the subject property, since some of the neighbors had expressed concerns about traffic. Mr. Simpson answered that the Denny's restaurant, which has a lease, currently uses that access point. He said that the petitioners propose to install signage on their property to encourage any drivers who wish to make a left turn onto Nicholasville Road to instead take Collins Lane to Southland Drive in order to use the traffic signal at the intersection of Southland and Nicholasville to make a left-hand turn.

Ms. Mundy asked how many jobs the proposed hotel could provide. Phil Greer, petitioner, stated that the proposed hotel would create 25 full-time jobs.

Mr. Wilson stated that the rendering of the proposed hotel looks attractive, but he is concerned about the petitioners' apparent unwillingness to compromise. He said that it seems that there are alternatives with regard to situating the building on the property that could accommodate everyone's needs. Mr. Wilson said that he is also confused as to why the petitioners would be unwilling to reduce the height of the proposed building to three stories, and he asked Mr. Simpson to explain their reasons for being unwilling to reduce the height of the proposed hotel and submit a new design. Mr. Simpson answered that the petitioners have given those alternatives serious consideration. He said that, if the proposed project was a residential development, they would have much more freedom to accommodate the neighbors' concerns. However, in this instance, the subject property has a small footprint, and the petitioners are required to provide the parking for the existing Denny's restaurant, so there is a limited amount of space in which to relocate the building. Mr. Simpson explained that, in general, a hotel's success depends on having the parking located in the front of the building. With regard to the question of reducing the height of the building, he said that, if the petitioners could "make the hotel work" with three stories, they would, but they must have at least 105 rooms to be successful. Lee Greer, petitioner, added that the Hampton Inn franchise would not allow a hotel of less than 100 rooms so near the University of Kentucky.

Mr. Cravens stated that he believes that, although the size of the proposed building is a bit problematic, the other benefits of the proposal outweigh that one concern. Referring to the architect's rendering of the building, he said that it appeared that the top floors of the building are darker in color, which makes them less visible. Mr. Cravens stated that, in addition, there is existing screening in place and the petitioners have agreed to plant more. He added that the traffic impact of the proposed hotel appears to be minimal, and the related stormwater improvements would be a benefit for the neighborhood. Mr. Cravens stated that he understands that a certain number of rooms would be required in order for the hotel to be profitable. He concluded by opining that the \$15 million the petitioners are proposing to spend, in addition to the construction and contracting jobs generated, could be a major benefit to Lexington, particularly if the petitioners used local companies.

Ms. Blanton stated that she normally considers every side of a proposed rezoning equally, but she is concerned about the close proximity of the proposed hotel to the neighborhood. She said that she does not believe in micromanaging sites, and she understands the need of the petitioner to have a certain number of rooms; however, she believed that the petitioners could have benefitted from agreeing to shift the location of the building on the site. Ms. Blanton said that, although she believed that there are some positive aspects of the proposed rezoning, she cannot support the construction of a hotel so near a residential neighborhood.

Ms. Beatty commended the neighbors for being so well-organized and attempting to maintain the character of their neighborhood. She said that it is often difficult for the Planning Commission members to balance the needs of neighborhoods and developers. Ms. Beatty added that, although she also has some concerns about the height of the proposed building and its close proximity to the adjoining residences, she applauds the petitioners for trying to "jump-start" the revitalization of the Southland Drive corridor, which has been neglected for some time.

Mr. Berkley stated that he shares the concerns of some of his fellow Commissioners with regard to the height of the proposed building and the proximity to the neighborhood. He added that he is also considering the possible benefits of the project, and how it could improve the Southland Drive area. Mr. Berkley said that some of the neighbors had indicated that they would like to have more retail or office uses in the area; but, in his experience, those types of uses could be more intrusive than a hotel. He also said that there is already a considerable amount of vacant retail space on Southland Drive. Mr. Berkley opined that successful projects are desirable for the community, and there is a need for this use, given the proximity to several hospitals. He concluded by noting that, although he appreciated the residents' concerns, he supported this proposed rezoning.

Mr. Brewer said that he believed that the staff made two good points in their recommendation for disapproval of this request, and did not believe it meets the criteria required for a rezoning. He commended the community residents for their

* - Denotes date by which Commission must either approve or disapprove request.

overwhelming response in opposition, and noted that he might have been able to be persuaded to vote against the staff were it not for the many concerns expressed by the residents.

Mr. Owens echoed Mr. Brewer's comments, and commended the neighbors for their attendance at this hearing. He said that he initially thought that the proposed hotel would be a benefit to the area, but he now believed that it would be too close to the adjoining residences. Mr. Owens stated that he also has not heard the argument that the existing B-1 zoning is inappropriate at this location. He concluded by noting that he would support the staff's recommendation of disapproval.

Ms. Roche-Phillips asked if the petitioner would be willing to consider withdrawing or modifying this application, and working with the residents to develop a more acceptable alternative. Mr. (Phil) Greer stated that he had already compromised by spending \$250,000 on stormwater improvements and performing a traffic study. Ms. Roche-Phillips stated that the residents' concerns did not seem to be primarily about stormwater or traffic, but about the proposed site plan, including the proposed height of the building. Mr. (Phil) Greer responded that the height of the building is the one issue on which he cannot compromise. Mr. (Lee) Greer added that the five-story building was already a compromise, as they had originally intended for it to be taller.

Motion: A motion was made by Ms. Roche-Phillips and seconded by Mr. Wilson to disapprove this request, for the reasons provided by staff. She added that she does not believe that the petitioners have demonstrated that the existing B-1 zoning is inappropriate and the proposed B-3 zoning is appropriate, which is one of the KRS 100 requirements for a zone change.

Discussion of Motion: Mr. Cravens asked if the Commission members would be willing to agree to the proposed zone change if the development plan was reworked to reconfigure the hotel building on the site. Mr. Greer explained that the hotel could not be moved to the front of the site, because it would impede upon Denny's parking and force the hotel parking to the rear of the building, which is undesirable. He said that he cannot move the location of the hotel.

Zoning Action: Ms. Roche-Phillips' motion for disapproval carried, 7-3 (Beatty, Berkley, and Cravens opposed; Penn absent).

Development Plan Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Wilson, and carried 10-0 (Penn absent) to indefinitely postpone ZDP 2012-76.

3. ZOTA 2012-14: INCREASE NOTIFICATION REQUIREMENTS FOR MAP AMENDMENT REQUEST (ZONE CHANGE APPLICATIONS) – petition for a Zoning Ordinance text amendment to increase the notification requirements for a zone map amendment request (aka zone change application) for properties a distance of 500 feet from the subject property.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Underlined bold text below indicates an addition, ~~dashed through~~ text indicates a deletion to the current Zoning Ordinance.

ARTICLE 6: AMENDMENTS

6-4(b) NOTICE OF PUBLIC HEARING BEFORE THE PLANNING COMMISSION – Before voting upon any proposed text amendment, zone map amendment, or binding condition or restriction amendment, notice of the time, place and reason for holding a public hearing shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing. In addition, for any map amendment, or binding condition or restriction amendment, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing, and notice shall be given by first-class letter at least twenty-one (21) days in advance to owners of all property within a ~~500~~**400**-foot radius of the subject property. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a ~~500~~**400**-foot radius of the subject property, but to the next two properties beyond those included in the ~~500~~**400**-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property for a zone change request or more than one (1) mile from the subject property for a conditional use or variance request in conjunction with a zone change as allowed in Article 6-4(c). For any Council- or Commission-initiated map amendment, notice by first-class letter shall be given to all owners of property, the classification of which is proposed to be changed, at least thirty (30) days prior to the public hearing.

Staff Alternative Text:

* - Denotes date by which Commission must either approve or disapprove request.

6-4(b) NOTICE OF PUBLIC HEARING BEFORE THE PLANNING COMMISSION – Before voting upon any proposed text amendment, zone map amendment, or binding condition or restriction amendment, notice of the time, place and reason for holding a public hearing shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing. In addition, for any map amendment, or binding condition or restriction amendment, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing, and notice shall be given by first-class letter at least twenty-one (21) days in advance to owners of all property within a ~~500~~400-foot radius of the subject property. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a ~~500~~400-foot radius of the subject property, but to the next two properties beyond those included in the ~~500~~400-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property for a zone change ~~or variance~~ **or variance** request, or more than one (1) mile from the subject property for a conditional use ~~or variance~~ request in conjunction with a zone change as allowed in Article 6-4(c). For any Council- or Commission-initiated map amendment, notice by first-class letter shall be given to all owners of property, the classification of which is proposed to be changed, at least thirty (30) days prior to the public hearing.

The Zoning Committee Recommended: **Approval of the staff alternative text**, for the reasons provided by staff.

The Staff Recommends: **Approval of the Staff Alternative Text**, for the following reasons:

1. The staff alternative text amendment is supported by Goal #1 of the 2007 Comprehensive Plan, which endorses providing planning processes which enable widespread citizen participation and benefit the community; as well as Theme F.1. of the 2012 Comprehensive Plan's Goals and Objectives, which encourages engaging the residents of Lexington-Fayette County in the planning process, especially through constructive communication. The amendment expands mailed notice by twenty-five (25%) and will provide a detailed notification letter to a greater number of property owners near the location of a proposed zone change.
2. Until earlier this year, the Zoning Ordinance treated the notification for a zone change (Planning Commission) and a conditional use (Board of Adjustment) application equally; that is, notification to property owners within 400 feet of the subject property. However, the recently approved change to Article 7 now gives deference or greater importance to conditional use applications. The proposed text amendment would equalize these notification requirements again, as each can have an equal impact to surrounding property owners.

Staff Presentation: Ms. Wade presented the staff report on this requested text amendment, noting that a staff exhibit had been distributed to the Commission members prior to the start of the hearing. She said that this proposed text amendment would amend the notification requirements for map amendment requests (zone changes). This request was initiated by the Planning Commission earlier in 2012 at the request of the staff.

Ms. Wade stated that the proposed change is to Article 6-4 of the Zoning Ordinance, which regulates the requirements for notification when a zone change application is filed. Currently, there are three ways in which citizens are notified of a requested zone change: 1) mailed notice to property owners within 400 feet; 2) a sign posted on the property; and 3) a legal advertisement in the *Herald-Leader*. This text amendment would change the mailed notice requirement for first-class mail from 400 feet to 500 feet in order for it to be consistent with a recent change to the notification requirements for conditional use applications, which was approved by the Planning Commission and adopted by the Urban County Council. In that case, the staff made a recommendation that the proposed zone change met Goal 1 of the 2007 Comprehensive Plan, which endorses, "Provided planning processes which enable citizen participation and benefit the community." This proposed zone change would also support that Goal, as well as theme F.1 of the 2012 Comprehensive Plan, which encourages, "engaging residents of the county in the planning process, especially through constructive communication."

Ms. Wade said that the enacted change to Article 7 of the Zoning Ordinance gave deference to conditional use applications over zone change requests by increasing the notification requirement to 500 feet, while notification for a zone change remains at 400 feet. The staff did not want to convey the message to neighborhoods, citizens, and applicants that conditional use permits have more impact or are more important than a zone change. The staff contends that a zone change could potentially have more impact on a neighborhood. This proposed text amendment would equalize notification requirements for zone changes and conditional use permits.

Ms. Wade noted that the staff drafted an alternative text, which made an additional small change to move the words "or variance" up one line in the paragraph, in order to make the requirements more consistent with those that would have to be followed by an applicant for the Board of Adjustment.

With regard to the staff exhibits previously distributed, Ms. Wade said that one document included cost estimates for the required notification mailings for conditional use and zone change applications. The staff's research indicated that the new 500-foot notification requirement could result in a 32% cost increase for Board of Adjustment appli-

* - Denotes date by which Commission must either approve or disapprove request.

cants. The same estimate for zone change notification indicated that postage cost would increase, on average, by less than \$10, so the impact would be minimal to most applicants. Ms. Wade stated that the staff and Zoning Committee recommended approval of the staff alternative text, for the reasons as listed in the staff report and on the agenda.

Citizen Comments: There were no citizens present to comment on this item.

Commission Comments: Mr. Cravens stated that he does not believe it is necessary for the notification requirements for zone changes and conditional use applications to match, particularly since notification is also provided via signs and legal advertisements. He said that the proposed text amendment would "tighten up the Zoning Ordinance," which would make development more difficult. Mr. Cravens opined that a zone change can be a "\$50,000 crapshoot," and that developers would like to have some certainty when they file zone change requests. He said that he is opposed to this request, and he would be willing to make a motion for disapproval.

Mr. Owens stated that a conditional use permit application following a rezoning could be difficult, since some citizens could receive notice of the conditional use application without having been notified of the zone change. He said that he believes that citizens need to be aware of these issues, and notification should be consistent.

Motion: A motion was made by Mr. Cravens, and seconded by Mr. Berkley, to disapprove ZOTA 2012-14. Mr. Cravens' motion failed, 6-4 (Blanton, Brewer, Owens, Plumlee, Roche-Phillips, and Wilson opposed; Penn absent).

Action: A motion was made by Ms. Plumlee, seconded by Ms. Roche-Phillips, and carried 7-3 (Berkley, Cravens, and Mundy opposed) to approve the staff alternative text of ZOTA 2012-14, for the reasons provided by staff.

VI. COMMISSION ITEMS

A. **21C MUSEUM HOTEL DEVELOPMENT AREA TIF** – review of a Tax Increment Financing development plan for compliance with the Comprehensive Plan, for properties located at 110 North Upper Street, 145 West Main Street, and 167 West Main Street.

The staff concluded that no rezoning, text amendments, or other changes needed in conjunction with the proposed TIF Development Plan, as the entire area is zoned B-2B (Downtown Center Business). That zone allows all of the proposed TIF uses as either a permitted or an accessory use. All that is anticipated as being needed is the parking variance, which will be subject to Board of Adjustment approval once submitted.

Ms. Rackers stated that the proposed TIF area is made up of the structures known as the First National Bank Building Tower Annex, the Fayette Building, and the Upper Street Annex. She explained that the subject properties total .25 acres, and comprise part of a block bounded by Main Street to the south, Wren Court to the east, and North Upper Street to the west.

Referring to the TIF staff report that was distributed to the Commission members prior to the start of the hearing, Ms. Rackers said that it lists several proposed improvements to the subject properties that are TIF eligible. The two main improvements to the property are: the construction of a 90-room boutique hotel, with amenities including a ballroom, restaurant, fitness center, lounge, and conference space; and a contemporary art museum that is proposed to be free and open to the public seven days a week. The petitioner proposes to complete a comprehensive restoration and rehabilitation of the buildings, all of which are historic; the oldest structure was constructed in 1872. The petitioner also proposes to remove the 1978 improvements to the Fayette Building and restore it to near its original condition. With regard to public improvements on the properties, Ms. Rackers said that the petitioner proposes to improve the infrastructure; upgrade all of the frontage sidewalks; upgrade and improve the streetscape along North Upper Street; install new lighting on the exterior of the buildings and under the canopies; and make all of the facilities ADA compliant.

Ms. Rackers displayed several photographs of the subject properties, including: 1) a view of the bank building, Tower Annex, and Fayette Building, from across Main Street; and 2) a view from the southwest of the Upper Street Annex. She said that the properties are currently zoned B-2B, which permits all of the uses proposed by the petitioner. Part of the intent of the B-2B zone is to promote tourism and the economic health of the community, to which the staff believes the proposed TIF area can contribute. Ms. Rackers noted that the properties are included in the Downtown Master Plan area, which is recommended for downtown mixed-use development. The DTMP, which was partially adopted as part of the 2007 Comprehensive Plan, provides an analysis of existing downtown conditions at the time it was drafted, as well as general recommendations for development in the downtown area. It includes seven specific principles which are intended to guide development in the downtown area: social capital; a pedestrian-friendly environment; discernible centers and edges; architectural language based on memory and invention; local treasures; ecology and sustainability; and resources and priorities. The staff believes that the proposed TIF development supports all of those DTMP principles. Ms. Rackers added that the 2012 Comprehensive Plan Goals and Objectives, which were adopted in May of 2012, include several items that are also supported by the proposed TIF, including: Goal A2, Objectives A and B; Goals C1 and C2, and five of their Objectives; Goal D3 and its Objectives; Goal D4; and Goal E1 and its Objectives.

* - Denotes date by which Commission must either approve or disapprove request.

Ms. Rackers stated that part of the Commission's review and certification of compliance with the Comprehensive Plan for the proposed TIF area includes any recommendations with regard to text amendments or zone changes that might be needed in order to fulfill the requirements of the project. She said that the staff has determined that no zone changes or text amendments will be necessary for the proposed TIF area, since the property is zoned B-2B, which permits all of the proposed uses. However, the minimum off-street parking requirement for the proposed hotel is 90 spaces, which is based on one space per guest room. There is no onsite parking for any of the subject properties, so the petitioner is in the process of appealing to the Board of Adjustment for a 50% parking reduction, which is allowable in the Infill & Redevelopment area. Approval of such a variance would reduce the parking requirement to 45 spaces, which the petitioner is proposing to lease in the Lexington Public Library parking garage. Ms. Rackers stated that, provided the proposed parking variance is approved by the Board of Adjustment, the staff finds that the proposed TIF Development Area is in compliance with the Comprehensive Plan, and requests that the Planning Commission certify it to the Urban County Council.

Commission Questions: Ms. Roche-Phillips asked if this proposed TIF area would overlap the CentrepoinTE TIF area, which was previously approved. Ms. Rackers answered that the subject properties were not included as part of that project, and they are also not part of the existing Courthouse Area TIF.

Petitioner Representation: Phillip Allen, representative for the petitioner, thanked the Commission and the staff for their work and consideration, and offered to answer questions if necessary.

Citizen Comment: There were no citizens present to comment on this proposal.

Discussion: Ms. Beatty asked if the 45 parking spaces proposed to be leased from the Lexington Public Library will meet the parking requirement. Ms. Rackers answered that, if the petitioner is granted a 50% parking reduction by the Board of Adjustment, those 45 spaces would meet the requirement.

Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 10-0 (Penn absent) to approve the required statement of compliance with the Comprehensive Plan for the proposed 21C Museum Hotel Development Area TIF.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR OCTOBER, 2012

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October 4, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	October 4, 2012
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	October 11, 2012
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	October 18, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October 24, 2012
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	October 25, 2012

X. ADJOURNMENT – There being no further business, Chairman Owens declared the meeting adjourned at 4:40 p.m.

TLW/TM/CT/BJR/BS/src

* - Denotes date by which Commission must either approve or disapprove request.